

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

ERNEST WAYNE MITCHELL)	
Petitioner)	
)	
v.)	NO. 2:05-CV-274
UNITED STATES OF AMERICA)	(NO. 2:04-CR-02)
Respondent)	

ORDER

This matter, brought pursuant to 28 U.S.C. § 2255, is before the Court on the *pro se* petitioner's motion for summary judgment. [Doc. 7]. The petitioner's motion is based on his assertion that the government was ordered by the Court to respond to his motion to vacate, set aside or correct his sentence by August 18, 2006, that the government has neither responded nor requested an extension of time to respond and, as a result, his claim should be considered to be undisputed by the government.

A review of the record establishes that the Court entered an order on July 14, 2006, which ordered the government to respond to petitioner's § 2255 motion on or before August 18, 2006. [Doc. 6]. This order was inadvertently entered in that the government had already responded to petitioner's motion on December 13, 2005, [Doc. 3] and petitioner had replied to the government's response on May 22, 2006.

[Doc. 5]. Therefore, the Court's order of July 14, 2006 [Doc. 6] is **WITHDRAWN**. For the same reasons, petitioner's "Motion for Summary Judgement [sic]" [Doc. 7] is **DENIED**.

SO ORDERED.

ENTER:

s/J. RONNIE GREER
UNITED STATES DISTRICT JUDGE